

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Robin L. Boucher and Cary D. Boucher,

Plaintiffs,

V.

U.S. Bank National Association, as Trustee for the RMAC Trust, Series 2016-CTT, successor in Interest to Mortgage Electronic Registration Systems, Inc. as nominee for National Future Mortgage, Inc.,

Defendant.

Civil Action No. 4:22-cv-11894-NMG

**U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE RMAC TRUST,
SERIES 2016-CTT'S MOTION TO DISMISS**

Pursuant to Fed. R. Civ. P. 12(b)(6), defendant U.S. Bank National Association, as Trustee for the RMAC Trust, Series 2016-CTT, (“Defendant”), by and through its counsel, Day Pitney LLP (“Day Pitney”), moves to dismiss the amended complaint filed by Robin L. Boucher and Cary D. Boucher (the “Plaintiffs”) in the Worcester Superior Court on October 12, 2022 (the “Complaint”) and removed to the U.S. District Court for the District of Massachusetts on November 9, 2022.

The Complaint seeks an injunction and declaratory judgment with respect to, *inter alia*, Defendant's rights to foreclose under the power of sale contained in a mortgage because Plaintiffs: (1) allege that the lapse of six years since payment on the Note likewise renders the Mortgage unenforceable; (2) allege that Defendant's mailing of a notice of foreclosure sale to an address in Florida, instead of to Plaintiffs at the Property, resulted in non-compliance with Massachusetts' notice requirements to foreclose; (3) challenge the validity of the assignment to Defendant, and; (4) allege that because Robin L. Boucher did not executed the Note, the

Mortgage securing the Note is invalid. As fully articulated in Defendant's memorandum of law in support of this motion, Plaintiffs claims fail to state any viable causes of action as a matter of law and dismissal of the Complaint is warranted.

WHEREFORE, Defendant respectfully prays that this Court enter an order dismissing all claims asserted by Plaintiffs in their Complaint and grant such further relief as this Court deems just and proper.

Respectfully submitted,

**U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR THE RMAC TRUST, SERIES
2016-CTT, SUCCESSOR IN INTEREST TO
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC. AS
NOMINEE FOR NATIONAL FUTURE
MORTGAGE, INC.,**

By their attorneys,

/s/ Thomas J. O'Neill

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DATED: December 16, 2022

LOCAL RULE 7.1(a)(2) CERTIFICATE OF COMPLIANCE

I, Michael K. Lane, hereby certify that on the 15th and 16th days of December, 2022, I attempted to confer with counsel for Plaintiffs in a good faith attempt to narrow or resolve the issues raised in this motion, but did not receive any response.

/s/ Michael K. Lane
Michael K. Lane

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic (NEF) and paper copies will be sent to those indicated as non-registered participants on December 16, 2022.

/s/ Michael K. Lane
Michael K. Lane